

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17546
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2003. The State Tax Commission has reviewed the file and makes its decision based on the contents of that file.

The amount of property tax reduction benefits depends on the income received by a claimant and the claimant's spouse--the greater the income, the smaller the benefit. [Redacted] (petitioner) filed a property tax reduction benefits application on or about March 17, 2003. The staff routinely audits the applications that have been submitted to the county where the petitioners live.

The petitioner's application showed the owners of the property as [Redacted]. However, the petitioner listed only himself as owner and included only his income. Review of the Warranty Deed on file with [Redacted] County shows the petitioner and [Redacted], husband and wife, are in title to the subject property.

Further examination of Tax Commission records identified income reported by [Redacted] in a 2002 Idaho income tax return. The return was filed with a filing status of head of household, which is a status reserved for unmarried persons.

The staff notified the petitioner of the intent to deny his benefits for 2003 because the county records showed the petitioner was in title along with a spouse whose income had been left out of the application for benefits the petitioner signed.

The petitioner answered the notice of intent to deny his benefits by sending a notarized letter of protest. In the letter, the petitioner explained that he and [Redacted] lived together as man and

wife until she moved out of the home in 1999. He said they were never formally married or divorced.

The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses a series of definitions to state the requirements for qualifying to receive property tax reduction benefits. Idaho Code § 63-701 states in pertinent part effective January 1, 2003:

63-701. DEFINITIONS. As used in this chapter:

- (1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be: . . .
- (3) "Household" means the claimant and the claimant's spouse. . . .
- (4) "Household income" means all income received by the claimant and, if applicable, the claimant's spouse, in a calendar year.
- (7) "Owner" means a person holding title in fee simple . . .

In 1995, when the petitioner purchased the subject property, he considered himself married under Idaho statutes that recognized a common law marriage. The petitioner's testimony and other evidence establishes that neither [Redacted] considered themselves as husband and wife after she moved from the home in 1999. At that time, common law marriage was no longer recognized in Idaho.

Idaho Code § 63-701(4) defines household income as all income received by the claimant and the claimant's spouse in a calendar year. Because the couple did not formally marry and common law marriages were no longer recognized during 1999 when they no longer considered themselves married, they did not see the need for a formal divorce. The Tax Commission questions whether or not it is appropriate to include [Redacted]'s income in the total household income for

property tax reduction purposes. For this reason, the Tax Commission has determined that the petitioner is entitled to receive a benefit based on his income alone. However, the ownership of the property is another issue. Because [Redacted] has an ownership interest in the property, the petitioner is allowed a benefit not to exceed \$1,200 to be paid on one-half interest in the property.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]